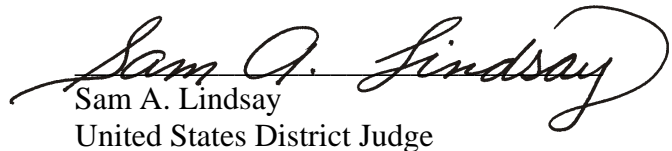


device on him while he was handcuffed. The magistrate judge found that Officer Green, Officer Sekorsky, and Officer Robinson were not present at the time of Plaintiff's arrest and were, therefore, entitled to judgment as a matter of law. He also found that Officer Taylor was entitled to judgment as a matter of law because his use of force (grabbing Plaintiff and spraying him with pepper spray) was objectively reasonable.

Having reviewed the motion, summary judgment evidence, the Report, and the applicable law in this case, the court determines that the findings and conclusions are correct. The magistrate judge's findings and conclusions are therefore **accepted** as those of the court. Accordingly, the court **grants** Defendants' Rule 56 Motion for Summary Judgment and **denies as moot** Defendants' Rule 12(b)(6) Motion to Dismiss.

It is so ordered this 27th day of August, 2008.


Sam A. Lindsay
United States District Judge